

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.791 OF 2005

Thermal Systems (Hyderabad) Pvt. Ltd. : Petitioner
(Orig. Deft. no.1)

V/s.

Teckleaders Engineers Co. (P) Ltd.
& Anr. : Respondents

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Ms J.N.Gandhi with Ms Premila K. Shah for the petitioner.

Mr.N.P.Deshpande for respondent no.1.

Mr.G.N.Pandit for respondent no.2.

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CORAM : S.A. BOBDE, J.

June 16, 2005.

P.C.:

1. Leave to delete respondent no.2.

2. Rule.

Mr.Deshpande for respondent no.1 and Mr.Pandit
for respondent no.2 appear and waive service of rule.

Rule is made returnable forthwith and heard by
consent.

3. Admittedly, there is an arbitration clause in the

purchase order under which goods are said to have been supplied by the respondent to the petitioner. The respondent no.1 has also sued the petitioner for the unpaid price, on the basis of the purchase order.

4. In the suit, the petitioner applied for referring the matter for arbitration under section 8. That application has been rejected.

5. Having heard the learned counsel for both the sides, there is no ground on which the impugned order can be sustained. The observation of the trial Court that the matter has proceeded for hearing without written statement is of no consequence. The observation of the trial Court that there appears to be no dispute between the parties which could be referred to arbitration is also without any basis since admittedly respondent no.1 has sued the petitioner.

6. In the circumstances, the impugned order is set aside. The trial Court is directed to refer the matter to arbitration in accordance with law. The rule is made absolute in the aforesaid terms.

Sd/-

S.A. BOBDE, J.